



Signed and Filed: April 17, 2024

Dennis Montali

DENNIS MONTALI
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:) Bankruptcy Case
PG&E CORPORATION,) No. 19-30088-DM
- and -) Chapter 11
PACIFIC GAS AND ELECTRIC COMPANY,) Jointly Administered
Reorganized Debtors.)
☐ Affects PG&E Corporation)
☐ Affects Pacific Gas and)
Electric Company)
☒ Affects both Debtors)
* All papers shall be filed in)
the Lead Case, No. 19-30088 (DM).)

ORDER OVERRULING SAYEGH BROTHERS MOTION

On April 9, 2024, the court heard the Sayegh Brothers' Motion to Determine If the Trustee's Modification of the Claims Resolution Procedure Was Approved by Bankruptcy Court and If Not So Approved to Grant Requested Relief Under 11 U.S.C. § 105(a) and § 1142(a) and B.L.R. 9014-1(b)(3) (Dkt. 14319) (the "Motion") and the Fire Victim Trustee's Objection to Sayegh

1 *Brothers Motion* (Dkt. 14388) ("FVT Objection"). Appearances are
2 noted on the record. For the reasons explained below, the court
3 will sustain the FVT Objection and deny the Motion.

4 **I. BACKGROUND**

5 On June 19, 2020, the Debtors filed the *Debtors' and*
6 *Shareholder Proponent's Joint Chapter 11 Plan of Reorganization*
7 *Dated June 19, 2020* ("Plan") (Dkt. 8048), which was the result
8 of many revisions and long negotiations by various stakeholders
9 over a months-long process.

10 On June 20, 2020 the court entered an *Order Confirming*
11 *Debtor's and Shareholder Proponent's Joint Chapter 11 Plan of*
12 *Reorganization Dated June 19, 2020* ("Confirmation Order") (Dkt.
13 8053). The Plan and Confirmation Order established the Fire
14 Victim Trust ("FVT") as of the Plan's effective date, on July 1,
15 2020. The main role of the FVT is the resolution and payment of
16 Fire Victim Claims. The process by which the FVT carries out
17 this role is set forth in the Fire Victim Trust Agreement
18 ("Trust Agreement") and the Fire Victim Claims Resolution
19 Procedures ("CRP") (both at Dkt. 8057), which are incorporated
20 into the Order Confirming Plan.

21 The Trust Agreement directs the FVT's Trustee and Claims
22 Administrator to resolve Fire Victim Claims in accordance with
23 the CRP, and also gives reasonable discretion in their
24 determinations without the need to seek out court approval in
25 that decision making. Trust Agreement §§ 2.3 and 2.4. The
26 Trust Agreement further states that "[t]he Claims
27 Administrator's determination, as confirmed by the Trustee, of
28 eligibility, amount, and allowance of each Fire Victim Claim

1 shall be final and binding, and shall not be subject to any
2 challenge or review of any kind, by any court or other person or
3 entity, except as set forth in Section IX of the CRP." Trust
4 Agreement § 2.4(d). Section IX of the CRP sets forth the
5 process by which only specifically named Fire Victim Claimants,
6 who preserved the right to seek judicial or other review of
7 their Fire Victim Claim determination, could seek such review.

8 Section II briefly sets forth the types of Fire Victim
9 Claims and supporting documents that may be submitted to the FVT
10 for determination, including claims for business losses. The
11 FVT further developed a claims questionnaire for submission for
12 Fire Victim Claimants. The "[FVT] also developed guidelines,
13 consistent with the claims determination provisions of the CRP,
14 to ensure the consistent consideration and determination of
15 various types of Fire Victim Claims based on information
16 provided to the Trust through the submission of the claims
17 questionnaire." FVT Objection (Dkt. 14388 ¶ 9). This included
18 the development of Guidelines for the determination of Business
19 Income Loss claims.

20 **II. SAYEGH BROTHERS DAMAGE CLAIMS**

21 Sayegh Brothers suffered enormous losses in the 2018 Camp
22 Fire in Paradise, CA, including the total destruction of its
23 retail buildings and substantial rental income from three long-
24 term tenants at that location.

25 Outside of the FVT, Sayegh Brothers recovered three million
26 dollars from its insurance carrier for the loss of its real
27 property and structures. It asserted a claim in the FVT for
28 economic damages of \$3,307,769 plus attorney fees, interest, and

1 cost of an additional \$1,321,156.01. The FVT allowed a total
2 Business Loss Income claim of \$527,538.61

3 After exhausting its non-judicial remedies in the FVT,
4 Sayegh Brothers filed the Motion. In the Motion, and at oral
5 argument presented by its counsel, it conceded that pursuant to
6 the CRP approved by the court as part of the Plan and
7 Confirmation Order, there was no judicial review available to
8 revisit the final determination by the FVT. Instead, it cited
9 to this court's *Memorandum Decision on Inverse Condemnation*
10 (Dkt. 4895) and built its argument around its belief that the
11 FVT had made unauthorized changes to the CRP, altering the
12 guidelines related to Business Income Loss in a manner that it
13 contended was inconsistent with controlling California law, and
14 in particular, the California's constitutionally required
15 determination of the amount of just compensation. Citing
16 CCP §§ 1235.125 and 1260.220(a), and *People v. Lynbar, Inc.*,
17 253 Cal.App.2d 870 (1967), among other cases, to demonstrate
18 that California eminent domain law views leases as a land
19 interest that increases the value of the land for which an owner
20 should be compensated.

21 **III. DISCUSSION**

22 The court's authority to revisit determinations by the FVT
23 for claimants does not exist for Sayegh Brothers or any other
24 PG&E wildfire claimants other than a handful whose claims have
25 now been finally determined without the need for judicial
26 intervention.

27 Counsel for Sayegh Brothers argues that this is not an end
28 run on the absence of authority to second guess the FVT's

determination, but rather an inquiry into whether or not fundamental bankruptcy procedures were ignored. There is no evidence to suggest that they were ignored. All the Sayegh Brothers has is a statement by its counsel as follows:

The appeal was conducted via Zoom on August 15, 2023. Judge Hight opened the hearing by stating that the procedures the Trust is using was approved by the bankruptcy court therefore the appeal is denied.

Declaration of Michael R. Bush, Dkt. 14319-1, 5:1-4.

That is all there is. In fact, the BIL and the detailed specifics (described below) were developed by the FVT well before counsel made this argument and well before the FVT issued its first determination on the Sayegh Brothers claim. The BIL include extensive eligibility criteria broken into various categories, including, more specifically, those that covered what are called "Significant Property Damage" and even more specifically, claimants whose losses resulted from the Camp Fire. In those criteria, claimants are entitled to damages calculated on leased property that has been lost and has directly resulted in economic loss. The losses for the Camp Fire, per the BIL criteria, are not compensable after forty-eight (48) months from the fire. This appears to be at the heart of Sayegh Brothers' complaint here.

In rejecting the Sayegh Brothers determination, the appeals neutral stated as follows:

Claimant appeals the Trust's determination of its lost rent on 3 commercial leases based on two grounds:

1. The trust used the valuation method, which was calculated based on Claimant's Federal Income Tax Statement's profit & loss statement to determine

1 the amount which should be compensated for the loss
2 of the 3 long term leases, instead of following
3 established criteria for loss of property due to
4 Eminent Domain/Inverse Condemnation.

- 5 2. Claimant's leases had 164 months to run before
6 expiration. The Trust only allowed 48 months under
7 its "Loss Period Caps". Claimant believes it is
8 entitled to the full 164 months.

9 As explained below, the FMV derived by either
10 valuation method makes virtually no difference when
11 applying the Trust's Business Income Loss Eligibility
12 Criteria. That Criteria limit losses to 48 months
13 pursuant to the Trust's established procedures.

14 Claimant claims a FMV of the leases of \$3,307,769.
15 Applying the Trust's "Loss Period Caps" to that number
16 Claimant would be entitled to \$514,281. (This number
17 is derived by dividing \$3,307,769 by 164 months, the
18 term of the leases, which equals \$20,169 per month)
19 Computing the loss over the Trust's 48 months
20 allowable loss at the rate of \$20,169 per month
21 results in \$514,281 due to Claimant. The Trust has
22 determined the loss to be \$527,538.61. Thus, applying
23 the Trust's rules, Claimant is being awarded \$13,257
24 more under the Trust's calculations than under its
25 calculations.

26 Claimant further alleges that other claimants have
27 been allowed more than the 48 months set forth in the
28 Trust's Business Income Loss Eligibility Criteria.
This reviewer could find no applicable substantiation
of this claim.

For the above reason this appeal is affirmed.

Notice of Trustee Determination, Dkt. 14319-1, p. 20.

It appears that not only is there no authority for
revisiting a final determination by the FVT, there was no
impropriety or ignoring of pre-existing court approved
procedures that control the administration of the FVT. More
importantly, the foregoing demonstrates that the methodology for

1 analyzing claims of this nature are similar whether under
2 eminent domain/inverse condemnation procedures or federal income
3 tax profit and loss statements are similar, but only in so far
4 as the procedures adopted by the FVT to limit loss income
5 property damages based upon consistently applied criteria¹.
6 Whatever California law may fix as the amount of any claim such
7 as Sayegh Brothers, what must be paid on that claim in this
8 federal proceeding governed by bankruptcy law and principles
9 need not be the same.

10 If those criteria adopted by the FVT were wrong in the
11 first instance, a proposition the court does neither endorse or
12 rejects, there is no basis to believe that court procedures were
13 ignored or that the determinations of the FVT can or should be
14 revisited.

15 **IV. CONCLUSION**

16 For the foregoing reasons, the Sayegh Brothers Motion is
17 overruled and the FVT Objection is sustained.

18 ****END OF ORDER****

26 ¹ By analogy, Bankruptcy Code section 502(b)(4) caps claims of
27 insiders and attorneys to reasonable amounts, and 502(b)(6) caps
28 those of landlords holding rejected leases to a formula of
roughly fifteen percent of lost future rent.

COURT SERVICE LIST

ECF Recipients